

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

IN THE MARION CIRCUIT COURT

CAUSE NO. **49E110203PL000483**

STATE OF INDIANA,)

Plaintiff,)

v.)

RICHARD KLEIN, individually and)
doing business as K.L.T. GENERAL)
CONTRACTING,)

Defendant.)

FILED

MAR 19 2002

Jane M Taylor
CLERK OF THE
MARION CIRCUIT COURT

**COMPLAINT FOR INJUNCTION, RESTITUTION, COSTS AND CIVIL
PENALTIES**

The State of Indiana, by Attorney General Steve Carter, and Deputy Attorney General Roger D. Smith, in accordance with Rule 3 of the Indiana Rules of Trial Procedure, petitions the court pursuant to the Indiana Deceptive Consumer Sales Act, Ind. Code §24-5-0.5-1 et seq., and the Indiana Home Improvement Contracts Act, Ind. Code §24-5-11 et seq., for injunctive relief, consumer restitution, civil penalties, investigative costs and other relief.

PARTIES

1. The Defendant, Richard Klein (Klein), at all times relevant to this complaint was owner of and did business as K.L.T. General Contracting at 1737 North Luett Avenue, Indianapolis, Indiana, 46222.

2. At all relevant times, Defendant was engaged in or solicited home improvement contracts.

FACTS

3. At least since March 21, 2000, Defendant has acted as a home improvement supplier by engaging in or soliciting home improvement contracts.

4. On March 22, 2000, Defendant entered into a contract with Ronnie Lewis ("Lewis") of Indianapolis, Indiana, wherein Defendant agreed to install shingles and flashing on Lewis' roof as well as installing vents, drip edge, and a valley rafter on Lewis' home for a price of three thousand seven hundred fifty dollars (\$3,750.00). A true and correct copy of Defendant's contract with Lewis is attached and incorporated by reference as Exhibit "A."

5. Defendant failed to include the following information in the home improvement contract entered into with Lewis:

- (a) the names of any agent to whom consumer problems and inquiries can be directed;
- (b) any time limitations on the consumer's acceptance of the home improvement contract; and
- (c) a legible printed or a typed version of the Defendant's and consumers' names placed directly after or below the signature.

6. Defendant failed to sign the home improvement contract.

7. Defendant failed to include in the home improvement contract entered into with Lewis the date the Defendant executed the contract.

8. On July 21, 2000, Defendant entered into a contract with Ronnie Lewis ("Lewis") of Indianapolis, Indiana, wherein Defendant agreed construct a garage addition, sunroom addition, and install a concrete approach to the garage on Lewis' home

for a price of sixteen thousand dollars (\$16,000.00). A true and correct copy of Defendant's contract with Lewis is attached and incorporated by reference as Exhibit "B."

9. Defendant failed to include the following information in the home improvement contract entered into with Lewis and referred to in paragraph 8, above:

- (a) the address of Defendant;
- (b) the telephone number of the Defendant;
- (c) the names of any agent to whom consumer problems and inquiries can be directed;
- (d) any time limitations on the consumer's acceptance of the home improvement contract; and
- (e) a legible printed or a typed version of the Defendant's and consumers' names placed directly after or below the signature.

10. Defendant failed to include in the home improvement contract entered into with Lewis the date the Defendant executed the contract.

11. Defendant failed to obtain the necessary license and permit for the home improvement work prior to any work commencing under the terms of the home improvement contract.

COUNT I - VIOLATIONS OF THE HOME IMPROVEMENT CONTRACTS ACT

12. The services described in paragraphs 4 and 8 above are "home improvements" as defined by Ind. Code § 24-5-11-3.

13. The transactions referred to in paragraphs 4 and 8 above are "home improvement contracts" as defined by Ind. Code §24-5-11-4.

14. Defendant is a home improvement supplier as defined by Ind. Code §24-5-11-6.

15. By failing to obtain the necessary license and permit prior to the commencement of any home improvement work at Lewis' home, as referred to in paragraph 11, Defendant violated the Indiana Home Improvement Contracts Act, Ind. Code §24-5-11-9.

16. By failing to provide Lewis with completed home improvement contracts containing the information referred to in paragraphs 5 and 9 above, Defendant violated the Home Improvement Contracts Act, Ind. Code § 24-5-11-10.

17. By failing to sign the home improvement contract with Lewis, as referred to in paragraph 6, Defendant violated Ind. Code § 24-5-11-11.

18. By failing to provide Lewis with completed home improvement contracts containing the date the Defendant executed the contract, as referred to in paragraphs 7 and 10 above, Defendant violated the Home Improvement Contracts Act, Ind. Code § 24-5-11-12.

COUNT II - VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT

19. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 18 above.

20. The transactions referred to in paragraphs 4 and 8 above are "consumer transactions" as defined by Ind. Code §24-5-0.5-2(a)(1).

21. Defendant is a "supplier" as defined by Ind. Code §24-5-0.5-2(a)(3).

22. The violations of the Indiana Home Improvement Contracts Act referred to in paragraphs 5, 6, 7, 9, 10, and 11 constitute deceptive acts.

23. By failing to obtain the necessary license and permit prior to the commencement of any home improvement work, as referred to in paragraph 11, Defendant violated Ind. Code § 24-5-0.5-10(a)(1)(A) by soliciting to engage in a consumer transaction without a permit or other license required by law.

24. The misrepresentations and deceptive acts set forth above will continue and will cause irreparable injury unless Defendant is enjoined from engaging in further conduct that violates Ind. Code §24-5-11-1 et seq. and Ind. Code §24-5-0.5-1 et seq.

**COUNT III - KNOWING AND INTENTIONAL VIOLATIONS OF
THE DECEPTIVE CONSUMER SALES ACT**

25. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 24 above.

26. The misrepresentations and deceptive acts set forth in paragraphs 5, 6, 7, 9, 10, and 11 were committed by Defendant with knowledge and intent to deceive.

RELIEF

WHEREFORE, the Plaintiff, State of Indiana, requests the Court enter judgment against Defendant for a permanent injunction enjoining Defendant from:

a. in the course of entering into home improvement transactions, failing to provide to the consumer a completed home improvement contract which includes at a minimum the following:

1) The name of the consumer and the address of the residential property that is the subject of the home improvement;

2) The name and address of the home improvement supplier and each of the telephone numbers and names of any agent to whom consumer problems and inquiries can be directed;

3) The date the home improvement contract was submitted to the consumer and any time limitation on the consumer's acceptance of the home improvement contract;

4) A reasonably detailed description of the proposed home improvements;

5) If the description required by Ind. Code §24-5-11-10(a)(4) does not include the specifications for the home improvement, a statement that the specifications will be provided to the consumer before commencing any work and that the home improvement contract is subject to the consumer's separate written and dated approval of the specifications;

6) The approximate starting and completion date of the home improvements;

7) A statement of any contingencies that would materially change the approximate completion date;

8) The home improvement contract price; and

9) Signature lines for the home improvement supplier or the supplier's agent and for each consumer who is to be a party to the home improvement contract with a legible printed or typed version of that person's name placed directly after or below the signature;

b. in the course of entering into home improvement transactions, failing to agree unequivocally by written signature to all of the terms of a home improvement contract before the consumer signs the home improvement contract and before the consumer can be required to make any down payment;

c. in the course of entering into home improvement transactions, failing to provide a fully executed copy of the home improvement contract that includes the dates the supplier and each consumer executed the contract to the consumer immediately after the consumer signs it;

d. in the course of entering into home improvement transactions, failing to obtain the necessary license prior to the commencement of any home improvement work;

e. cancellation of contracts pursuant to Ind. Code §24-5-0.5-4(d);

f. consumer restitution pursuant to Ind. Code §24-5-0.5-4(c)(2) in an amount to be determined at trial;

g. costs pursuant to Ind. Code §24-5-0.5-4(c)(3), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action;

h. on Count III of the Plaintiff's Complaint, civil penalties pursuant to Ind. Code §24-5-0.5-4(g) for the Defendant's knowing violations of the Deceptive Consumer Sales Act, in the amount of five hundred dollars (\$500.00) per violation, payable to the State of Indiana;

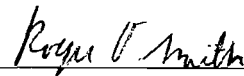
i. on Count III of the Plaintiff's Complaint, civil penalties pursuant to Ind. Code §24-5-0.5-8 for the Defendant's intentional violations of the Deceptive Consumer Sales

Act, in the amount of five hundred dollars (\$500.00) per violation, payable to the State of Indiana; and

j. all other just and proper relief.

Respectfully submitted,

STEVE CARTER
Attorney General of Indiana
Atty. No. 4150-64

By: 
Roger D. Smith
Deputy Attorney General
Atty. No. 23152-49

Office of Attorney General
Indiana Government Center South
402 W. Washington, 5th Floor
Indianapolis, IN 46204
Telephone: (317) 233-3972
42541

KLT GENERAL CONTRACTING
1737 N. LUETT AVE.
INDIANAPOLIS, IN. 46222
317-471-3262

Contract for Replacing Roof.

Addendum to contract dated March 22, 2000 between KLT General Contracting

And Ron Lewis, 4425 Devon Drive, Indpls. IN. (317-374-2549)

201001

1. Definitions: KLT General Contracting, will also be referred to as the "contractor"; the term "owner" includes any representative designated by the owner to act on his/her behalf in the absence of the owner; substantial completion means the remodeled area can be used for its intended purpose by the owner.

2. Help us avoid misunderstandings! Any discussions or presentations that occurred prior to the signing of a contract which involve scope of work and specification, or any changes, additions or deletions thereto, are preliminary in nature and usually included the offering of multiple alternatives for your consideration. From this preliminary process an agreed approach was evolved for inclusion as the basis of our contract. This contract is intended to reflect only that agreed approach and any other alternatives and/or options, unless they are expressly spelled out within the contract document as being available for election through a certain date or milestone, are to be deemed abandoned and not a part of the resulting contract. If you feel something that was discussed should be a part of this contract please bring it to our attention at this time so that it can be considered for incorporation into the contract prior to its signing by you. We must be certain of what you expect and have it written into the contract so that it may be communicated in writing to all involved.

3. Our contract pricing and construction schedule anticipate that, once the work is started, we will have continuous access to the work site and be able to perform our work in a continuous manner.

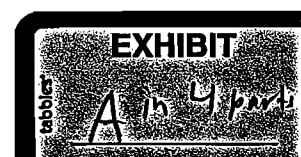
4. Unless otherwise provided by the contractor, all work completed by the contractor will be warranted for one year from date of its completion. All claims to the contractor must be made within one year from the date of substantial completion.

5. ~~The contractor's one year~~ Warranty to the owner is voided if the customer fails to make any payment on the contract or fails to make payment on any change order or the contractor, in exercising its rights hereunder, stops the work before it is completed.

6. All warranties are void if work performed by the contractor is repaired or corrected by others. Material failure is not the responsibility of the contractor.

7. All materials and supplies furnished by the contractor and not incorporated into the work hereunder, although in your custody at the work site, are and remain the property of the contractor. It is understood that contractor has the continuing permission of the owner to remove same. In no event will such removal result in an adjustment of the contract price.

8. All work performed by KLT General Contracting, will be supervised by a designated



representative, who may or may not be on site during the completion of the project.

9. In the case of collection on this contract the owners will be responsible for legal fees, court costs and expenses associated with non-payment.

10. All drawings, plans, specifications, etc., provided by the contractor will remain the property of the contractor.

11. If aluminum electrical wiring is discovered, there will be an additional charge to bring the existing wiring to code requirements.

12. As part of this Agreement, unless otherwise specified, the contractor will secure all permits and/or licenses for construction, and will arrange for all appropriate inspections. Certificate of Occupancy requirements that are outside the scope of this contract shall be by the owners or separate change order.

13. It is the owner's responsibility to be present for any Certificate of Occupancy inspections. If the owner cannot meet with the C. of O. inspectors, then the contractor, provided that the owner gives the contractor prompt notice (which must include a period of at least 4 business hours, will furnish an individual to await and accompany the Inspector. Persons provided by the contractor for such purposes will be billed under a change order at the rate of \$30.00 per hour.

14. The project site will be maintained in a safe and as sanitary a condition as practical. The contractor assumes no responsibility for any injury incurred by other persons on the project site.

15. The contractor maintains adequate insurance for the practice of construction and remodeling work. Certificates will be provided to the owner upon request.

16. Owners are reminded that with any improvement or addition, the value of replacement goes up. Please be sure to increase your (Home) Owner's Insurance policy as needed to cover the increased property value. Remember, as soon as materials are delivered to your property they are under your (Home) Owner's policy because they are in your custody, and are on, or have become a part of, your property.

17. In the event that a scheduled payment is more than three days past due, the contractor reserves the right to cease work on the project, declare the contract breached, and be paid for that percentage of the project already completed as well as unrealized profits for the entire project (if a contract price has been offered/accepted).

18. The contract will be satisfied upon substantial completion of all work as per plans/drawings/agreement. Substantial completion requires that the final payment be made by the owner as per the contract terms. Final inspection by the governing bodies or use of the space for which it was intended shall also mandate final payment.

19. All modifications/changes to the existing plans/drawings must be made in writing

upon a form provided by the contractor. Said form must be signed by both the owner and the contractor. (This clause will not apply to projects paid on a time and material basis). Only one signature from each respective party shall be necessary to execute a change order.

20. In the event the contractor is entitled to a change order under any of the provisions of this contract and the owner does not come to agreement with the contractor as to the terms and pricing of such a change order or, if the owner fails or refuses to make any contract or change order payments, the contractor shall have the right to stop all work until the situation is fully remedied and the owner has unconditionally reaffirmed all of his obligations hereunder.

21. The contractor is not responsible for existing, concealed conditions that may be revealed during construction. If any existing, concealed conditions interfere with completion of this project, they will be cured on a time and material basis as per the contract. The owner will be advised of same as soon as practically possible. Time is based on the national average of \$35.00 per hour per man.

22. The owner agrees to allow the contractor to place a sign on the front of the premises for purposes of identification while construction is in progress.

23. Starting and completion dates are estimates, and can be affected by weather, material shortages, changes to the proposed plans, etc. It is the intent of the contractor to proceed on this project through completion as expeditiously as practical.

24. The handling of regulated or hazardous building materials, i.e., asbestos and lead-based paint, is not included in this Agreement.

25. Any changes or alterations of the plans or specifications required by any public body, inspector or private or governmental agency, shall constitute additional work whose cost will be borne by the owner. Any inspections (engineering, compaction, soils testing, water testing, environmental, etc.) beyond municipal officials oversight as required by a governing body shall be at additional cost.

26. While every effort will be made to match existing materials, textures, colors and planes, exact duplication is not assured.

27. Unpaid balances thirty days past due will be billed interest charges at the rate of 1 1/2% per month.

28. All workmanship shall conform to the guidelines found in the publication Residential Construction Performance Guidelines - for Professional Builders and Remodelers, National Association of Home Builders, 1996. If an item is not covered in that publication, standard industry practice shall govern.

29. During the course of excavation if any conditions are found requiring blasting or mechanical removal of rock or hardpan materials this work will be billed as a change

order and cost will be in excess of assumed normal excavation. Additional work would include jack hammering, drilling and expansion cones or blasting.

30. Scope of work is as follows: remove and replace one layer of three tab shingles(replacement shingles are to be 25 year warranty.) remove and replace existing chimney flashing . install #15 felt , remove and replace roof vents, remove and install pipe boots, install style d drip edge, remove existing broken valley rafter and replace with new, this scope is limited to the estimate of 2500 square feet. Additional square feet will be billed at the rate of 150.00 per 100 square feet.

31. Homeowner to locate a site for the dumpster to be set and assumes fully responsibility for and damage to the site designated.

for KLT General Contracting

Date: _____

Ronnie Lewis
for (client)
Ronnie Lewis.

Date: 3-23-00

Estimated Start Date: 23 March 2000

Estimated Completion Date: 7 days thereafter. Contract total price:

\$ 3750 .00 Payments to be made as follows:

<u>30% Down (upon start)</u>	<u>\$1,125</u> ⁰⁰
<u>30% at the 50 percent completion</u>	<u>\$1,125</u> ⁰⁰
<u>40% upon final completion</u>	<u>\$1,500</u> ⁰⁰

* MAKE ALL CHECKS PAYABLE TO RICHARD KLEIN.

K.L.T. GENERAL CONTRACTING CONSTRUCTION CONTRACT

Addendum to contract dated July 21, 2000 between KLT General Contracting

And Ron Lewis, 4425 Devon Drive Indpls., IN. 317-374-2549

1. Definitions: KLT General Contracting, will also be referred to as the "contractor"; the term "owner" includes any representative designated by the owner to act on his/her behalf in the absence of the owner; substantial completion means the remodeled area can be used for its intended purpose by the owner.

2. Help us avoid misunderstandings! Any discussions or presentations that occurred prior to the signing of a contract which involve scope of work and specification, or any changes, additions or deletions thereto, are preliminary in nature and usually included the offering of multiple alternatives for your consideration. From this preliminary process an agreed approach was evolved for inclusion as the basis of our contract. This contract is intended to reflect only that agreed approach and any other alternatives and/or options, unless they are expressly spelled out within the contract document as being available for election through a certain date or milepost, are to be deemed abandoned and not a part of the resulting contract. If you feel something that was discussed should be a part of this contract please bring it to our attention at this time so that it can be considered for incorporation into the contract prior to its signing by you. We must be certain of what you expect and have it written into the contract so that it may be communicated in writing to all involved.

3. Our contract pricing and construction schedule anticipate that, once the work is started, we will have continuous access to the work site and be able to perform our work in a continuous manner.

4. Unless otherwise provided by the contractor, all work completed by the contractor will be warranted for one year from date of its completion. All claims to the contractor must be made within one year from the date of substantial completion.

5. The contractor's one year Warranty to the owner is voided if the customer fails to make any payment on the contract or fails to make payment on any change order or the contractor, in exercising its rights hereunder, stops the work before it is completed.

6. All warranties are void if work performed by the contractor is repaired or corrected by others. Material failure is not the responsibility of the contractor.

7. All materials and supplies furnished by the contractor and not incorporated into the work hereunder, although in your custody at the work site, are and remain the property of



the contractor. It is understood that contractor has the continuing permission of the owner to remove same. In no event will such removal result in an adjustment of the contract price.

8. All work performed by KLT General Contracting, will be supervised by a designated representative, who may or may not be on site during the completion of the project.

9. In the case of collection on this contract the owners will be responsible for legal fees, court costs and expenses associated with non-payment.

10. All drawings, plans, specifications, etc., provided by the contractor will remain the property of the contractor.

11. If aluminum electrical wiring is discovered, there will be an additional charge to bring the existing wiring to code requirements.

12. As part of this Agreement, unless otherwise specified, the homeowner will secure all permits and/or licenses for construction, and will arrange for all appropriate inspections. Certificate of Occupancy requirements that are outside the scope of this contract shall be by the owners or separate change order.

13. It is the owner's responsibility to be present for any Certificate of Occupancy inspections. If the owner cannot meet with the C. of O. inspectors, then the contractor, provided that the owner gives the contractor prompt notice (which must include a period of at least 4 business hours, will furnish an individual to await and accompany the Inspector. Persons provided by the contractor for such purposes will be billed under a change order at the rate of \$30.00 per hour.

14. The project site will be maintained in a safe and as sanitary a condition as practical. The contractor assumes no responsibility for any injury incurred by other persons on the project site.

15. The contractor maintains adequate insurance for the practice of construction and remodeling work. Certificates will be provided to the owner upon request.

16. Owners are reminded that with any improvement or addition, the value of replacement goes up. Please be sure to increase your (Home) Owner's Insurance policy as needed to cover the increased property value. Remember, as soon as materials are delivered to your property they are under your (Home) Owner's policy because they are in your custody, and are on, or have become a part of, your property.

17. In the event that a scheduled payment is more than three days past due, the contractor reserves the right to cease work on the project, declare the contract breached, and be paid for that percentage of the project already completed as well as unrealized profits for the entire project (if a contract price has been offered/accepted).

18. The contract will be satisfied upon substantial completion of all work as per

plans/drawings/agreement. Substantial completion requires that the final payment be made by the owner as per the contract terms. Final inspection by the governing bodies or use of the space for which it was intended shall also mandate final payment.

19. All modifications/changes to the existing plans/drawings must be made in writing upon a form provided by the contractor. Said form must be signed by both the owner and the contractor. (This clause will not apply to projects paid on a time and material basis). Only one signature from each respective party shall be necessary to execute a change order.

20. In the event the contractor is entitled to a change order under any of the provisions of this contract and the owner does not come to agreement with the contractor as to the terms and pricing of such a change order or, if the owner fails or refuses to make any contract or change order payments, the contractor shall have the right to stop all work until the situation is fully remedied and the owner has unconditionally reaffirmed all of his obligations hereunder.

21. The contractor is not responsible for existing, concealed conditions that may be revealed during construction. If any existing, concealed conditions interfere with completion of this project, they will be cured on a time and material basis as per the contract. The owner will be advised of same as soon as practically possible. Time is based on the national average of \$35.00 per hour per man.

22. The owner agrees to allow the contractor to place a sign on the front of the premises for purposes of identification while construction is in progress.

23. Starting and completion dates are estimates, and can be affected by weather, material shortages, changes to the proposed plans, etc. It is the intent of the contractor to proceed on this project through completion as expeditiously as practical.

24. The handling of regulated or hazardous building materials, i.e., asbestos and lead-based paint, is not included in this Agreement.

25. Any changes or alterations of the plans or specifications required by any public body, inspector or private or governmental agency, shall constitute additional work whose cost will be borne by the owner. Any inspections (engineering, compaction, soils testing, water testing, environmental, etc.) beyond municipal officials oversight as required by a governing body shall be at additional cost.

26. While every effort will be made to match existing materials, textures, colors and planes, exact duplication is not assured.

27. Unpaid balances thirty days past due will be billed interest charges at the rate of 1 1/2% per month.

28. All workmanship shall conform to the guidelines found in the publication Residential Construction Performance Guidelines - for Professional Builders and Remodelers,

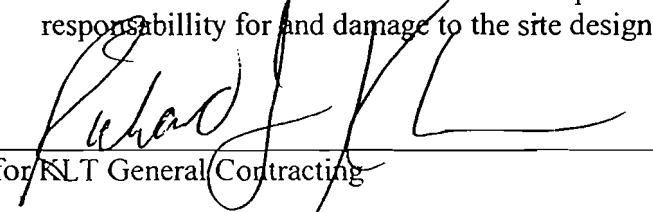
National Association of Home Builders, 1996. If an item is not covered in that publication, standard industry practice shall govern.

29. During the course of excavation if any conditions are found requiring blasting or mechanical removal of rock or hardpan materials this work will be billed as a change order and cost will be in excess of assumed normal excavation. Additional work would include jack hammering, drilling and expansion cones or blasting.

30. Construction of a 30 by 20 foot garage addition. 10 by 15 sunroom addition.

- a.) pour slab 30 by 20 for garage
 - b.) pour a new approach to garage (concrete)
 - c.) construct frame
 - d.) construct roof
 - e.) apply brick (to be matched as close to existing as possible)
 - f.) construct a green treated deck according to diagram
 - g.) construct a 10 by 15 sunroom on deck
 - h.) remove window on existing garage and replace with french door
 - i.) frame a wall and door where existing garage door is
 - j.) frame interior of existing garage according to diagram #2
- additions:

31. Homeowner to locate a site for the dumpster to be set and assumes fully responsibility for and damage to the site designated.


for KLT General Contracting

Date: _____

for (client)

Date: _____

Estimated Start Date: July 24,2000

Estimated Completion Date: 70days thereafter. Total contract price:

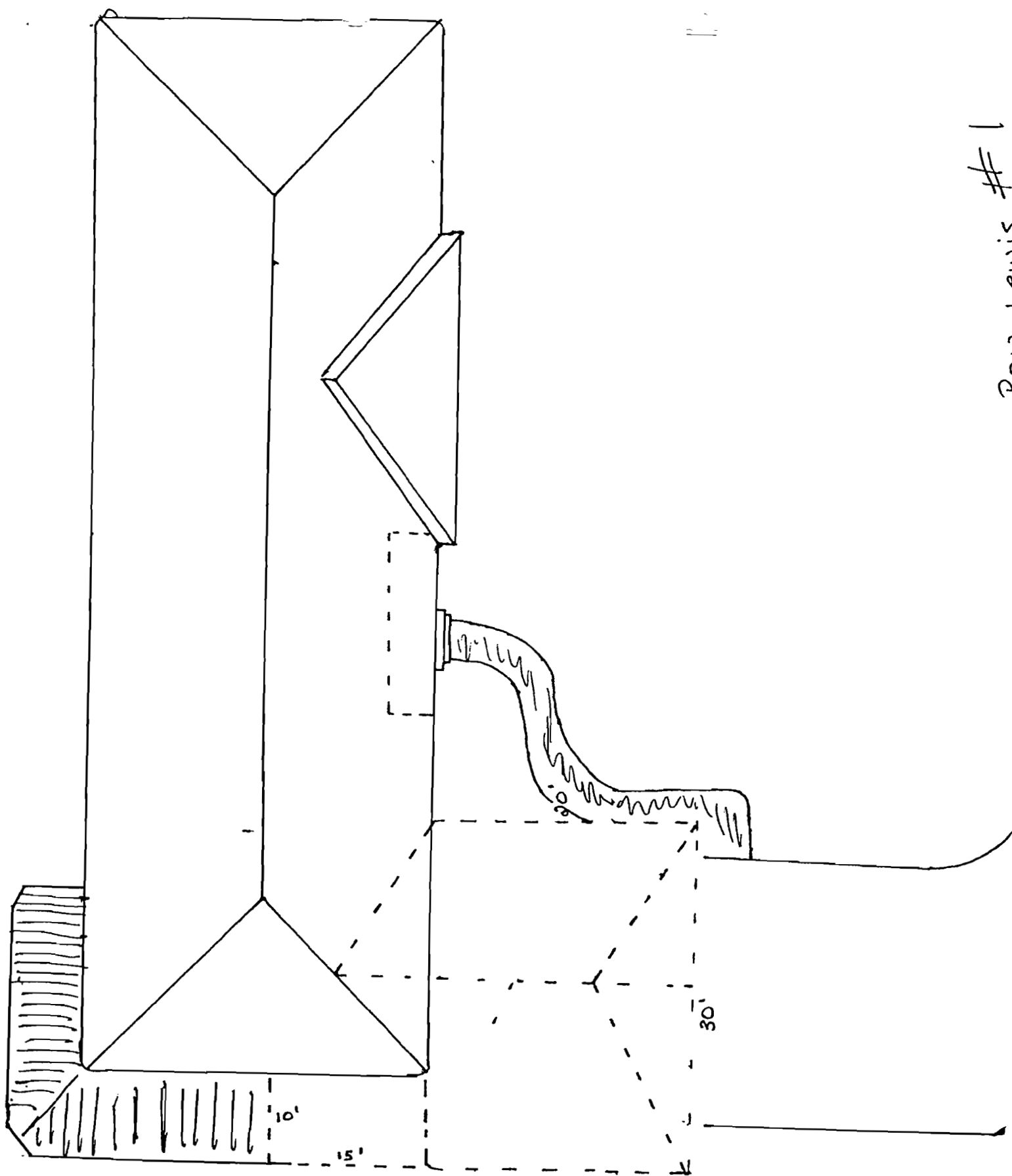
\$ 16,000.00

Payment schedule as follows:

down payment	<u>5,280.00</u>
1/2 way complete	<u>5,280.00</u>
completion	<u>5,440.00</u>

MAKE ALL CHECKS PAYABLE TO RICHARD KLEIN.

Ron Lewis #1



#2
Row Lewis

